EXHIBIT H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---------------------------------------X
LLEWELLYN ANGELO WILLIAMS,

Plaintiff,

-against-

INDEX NO.
13-CV-3315(NSR)(JCM)
ECF CASE

THE CITY OF NEW ROCHELLE,
THE CITY OF NEW ROCHELLE POLICE DEPARTMENT
SERGEANT DANIEL CONCA,
SERGEANT JOHN INZEO,
SERGEANT KYLE WILSON,
POLICE OFFICER ADAM CASTIGLIA,
POLICE OFFICER EDWARD SILLER,

Defendants.
---------------------------------------X

City Hall
515 North Avenue
February 11, 2015
Time: 11:00 a.m.

EXAMINATION BEFORE TRIAL OF SERGEANT DANIEL CONCA, a Defendant, in the above-captioned matter, held at the above time and place before Judy Pisani, a Notary Public of the State of New York.

SERGEANT DANIEL CONCA

A P P E A R A N C E S:

RUSSELL B. SMITH, ESQ.
Attorney for Plaintiff
399 Knollwood Road - Suite 220
White Plains, New York 10603

MARK W. BLANCHARD, ESQ. Corporation Counsel
Attorney for Defendants
City Hall
515 North Avenue
New Rochelle, New York 10801
BY: BRIAN J. POWERS, ESQ.
Deputy Corporation Counsel

ALSO PRESENT:

Sergeant John Inzeo
Police Officer Edward Siller
Sergeant Kyle Wilson

SERGEANT DANIEL CONCA

S T I P U L A T I O N S:

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties hereto, that this examination may be sworn to before any Notary Public.

IT IS FURTHER STIPULATED AND AGREED that the filing and certification of the said examination shall be waived.

IT IS FURTHER STIPULATED AND AGREED that all objections to questions, except as to the form of the question shall be reserved for the time of trial.

SERGEANT DANIEL CONCA

SERGEANT DANIEL CONCA, having been duly sworn by Judy Pisani, a Notary Public within and for the State of New York, was examined and testified as follows:

oOo

MR. POWERS: Just to start, as with all witnesses today, I'm requesting the right for the witness to be presented with an opportunity to review the transcript pursuant to Federal Rule of Civil Procedure 30-E.

MR. SMITH: Thank you.

EXAMINATION BY MR. SMITH:

Q. Sergeant Conca, my name is Russell Smith. I'm going to be conducting this deposition. If you have any questions, you can speak to your attorney. Okay? You have to answer yes, so that way she can write it down.
A. Yes.
Q. How long have you been employed by the New Rochelle Police Department?
A. 17 years.
Q. And what is your current assignment?
A. I'm patrol sergeant.
Q. Before that, did you have any police

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experience?
A. Before sergeant?
Q. Before New Rochelle.
A. No.
Q. During your tenure, your 17 years with the New Rochelle Police Department, what company or what organization does the booting and the towing for the public roadways and the public lots within the City of New Rochelle?
A. Safeway Towing.
Q. And during your tenure as a police officer for the City of New Rochelle, are you aware of any other companies that have ever had the business of booting or towing vehicles on public roadways and public parking lots in New Rochelle?
A. No.
Q. Safeway conducts those operations within the parking lots, the public lots; correct?
A. Yes.
Q. They also do it on the city streets; correct?
A. Yes.
Q. They also do it in the lots in New Roc City?
A. Yes.
Q. And they do it in the public parks in the

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Q. Do you recall advising the CVS employees who were working in CVS on that date, that the signs that Mr. Williams had put up in that lot directly on top of the signs that Safeway had placed there, do you recall advising the CVS employees that those signs had to be removed, Mr. Williams' signs had to be removed?
A. No.
Q. You never said that to the CVS employee?
A. First of all, I don't think I directly spoke to any CVS employees. I believe Officer Schlesinger did. I was the supervisor.
Q. Were you there when Officer Schlesinger advised the CVS employees that the signs that Mr. Williams had put up directly on top of the signs that Safeway had placed there for years had to be taken down; yes or no?
A. I did not -- no, I don't recall that. I did not tell anybody to tell anybody that, and I didn't tell anybody that. Nobody told anybody to take any signs down, as far as I know.
Q. You're familiar with that lot?
A. Yes.
Q. You go there in regard to your duties as a New Rochelle Police Department; correct?

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A. Yes.
Q. Prior to Mr. Williams and Avalon Towing being retained, you were aware that Safeway had signs up in that lot?
A. No, I was not aware of that.
Q. Sergeant, you do not recall advising specifically on that date those CVS employees, you didn't advise them that if, in fact, Mr. Angelo Williams was allowed to boot any vehicles in that CVS lot in the future, from that date, that you, Sergeant, would issue CVS city code violation?
A. I don't recall saying that. I mean -- you know, I did take action there but that's not what happened.
Q. What do you recall happening?
A. The signage was improper. You're supposed to have a sign at the entrance, and the sign was halfway down the wall. The law says it has to be at the entrance. That was the issue at hand.
Q. At the time that you responded to that lot, you never had any conversation with a CVS employee?
A. I don't recall. You asked me if I recall. I don't recall speaking to an employee of CVS. I recall having everything done through Officer Schlesinger. I

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recall him speaking to the employees at CVS. I don't recall speaking to them.
Q. Do you remember a CVS employee being threatened that CVS was going to be issued city code violations if Mr. Williams were allowed to continue to boot vehicles in that lot?
A. I recall a CVS employee being issued a warning. That's what I recall.
Q. What type of warning were they issued?
A. In violation of the signage ordinance. Advising them the sign needs to be installed at the entrance.
Q. If there was a photograph of the signs that Mr. Williams had put up and demonstrates that those signs were directly over the signs that Safeway had previously put up, were you aware of that?
A. If there was a photograph?
Q. Yes.
A. Was I aware of a photograph?
Q. Yes.
A. No, I was not aware of a photograph.
Q. During the course of your career, did you ever personally issue any employee of Safeway any violations for city codes of New Rochelle?

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MR. POWERS: Safeway?
MR. SMITH: Yup.
A. I don't know.
Q. Would you remember that?
A. How would I remember that? I've issued a lot of city codes. Are you saying, am I issuing them as city code while they are an employee, or am issuing city code while -- I could have. I might have. I might have issued an employee of Safeway.
Q. Do you remember when?
A. No. They have a lot employees. I might have issued them a city code for drinking in public and I didn't know they were an employee.
Q. If there was never a city code issued to any Safeway employee, would that surprise you?
A. Yes.
Q. But you don't remember exactly when you might have, you personally, might have issued city code violations to an employee of Safeway Towing?
A. No. They have a lot of employees. They've been here since I'm employed. That would be an impossible question for me to answer.
Q. The discussion that you overheard, is it detective or sergeant Schlesinger?